

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

JASON FRYE,

Plaintiff,

v.

CAROLYN COLVIN, Acting Commissioner
of Social Security Administration, et al.,

Defendant.

Case No. 3:14-cv-00523-MMD-VPC

ORDER ACCEPTING AND ADOPTING
REPORT AND RECOMMENDATION OF
MAGISTRATE JUDGE
VALERIE P. COOKE

Before the Court is the Report and Recommendation of United States Magistrate Judge Valerie P. Cooke (ECF No. 25) ("R&R") relating to plaintiff's motion for attorney's fees and costs. (ECF No. 24.) The parties had until July 25, 2016, to object to the R&R. No objection has been filed.

This Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge's report and recommendation, then the court is required to "make a *de novo* determination of those portions of the [report and recommendation] to which objection is made." 28 U.S.C. § 636(b)(1). Where a party fails to object, however, the court is not required to conduct "any review at all . . . of any issue that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate judge's report and recommendation where no objections have been filed. See *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard

1 of review employed by the district court when reviewing a report and recommendation to
2 which no objections were made); *see also Schmidt v. Johnstone*, 263 F. Supp. 2d 1219,
3 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the
4 view that district courts are not required to review "any issue that is not the subject of an
5 objection."). Thus, if there is no objection to a magistrate judge's recommendation, then
6 the court may accept the recommendation without review. *See, e.g., Johnstone*, 263 F.
7 Supp. 2d at 1226 (accepting, without review, a magistrate judge's recommendation to
8 which no objection was filed).

9 Nevertheless, this Court finds it appropriate to engage in a *de novo* review to
10 determine whether to adopt Magistrate Judge Cooke's R&R. The Magistrate Judge
11 recommends that plaintiff's unopposed motion for attorney's fees and costs (ECF No.
12 24) be granted, subject to offset. Upon reviewing the R&R and the records in this case,
13 this Court finds good cause to adopt the Magistrate Judge's R&R in full.

14 It is therefore ordered, adjudged and decreed that the Report and
15 Recommendation of Magistrate Judge Valerie P. Cooke (ECF No. 25) is accepted and
16 adopted in its entirety.

17 It is ordered Plaintiff's motion for fees and costs (ECF No. 24) is granted. The
18 plaintiff is awarded attorney's fees in the amount of \$6,831.51 and costs in the amount of
19 \$411.55, subject to any offsets allowed under the Treasury Offset Program ("TOP") as
20 discussed in the R&R.

21 It is further ordered that, subject to any offset allowed under the TOP, defendant
22 make the check for the award payable to John C. Boyden and send the check to the
23 address provided for Erickson, Thorpe & Swainston, Ltd.

24 The Clerk is directed to enter judgment in accordance with this order.

25 DATED THIS 28th day of July 2016.

26 

27 MIRANDA M. DU
28 UNITED STATES DISTRICT JUDGE